

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Constellation Mystic Power, LLC,)	
)	
Petitioner,)	
)	
v.)	No. 24-1077
)	
Federal Energy Regulatory)	
Commission,)	
Respondent.)	

UNOPPOSED MOTION TO HOLD THE CASE IN ABEYANCE

Under the Court’s May 17, 2024 order and Federal Rule of Appellate Procedure 27, Petitioner Constellation Mystic Power, LLC (“Mystic”) submits this motion. Mystic has contacted counsel for Respondent Federal Energy Regulatory Commission and is authorized to state that the Commission does not oppose this motion.

BACKGROUND

This appeal arises from a Commission order regarding challenges to an annual informational filing submitted by Mystic. The Commission granted in part and rejected in part the challenges to Mystic’s filing and found that the information filing raises issues of material fact that cannot be resolved on the record before the Commission. So the Commission set the matter for hearing and

settlement judge procedures. *Constellation Mystic Power, LLC*, 185 FERC ¶ 61,170 (2023).

Mystic filed a request for rehearing of that order. On February 5, 2024, the Commission issued a “Notice of Denial of Rehearing by Operation of Law and Providing for Further Consideration,” in which the Commission gave notice that it will address the pending request for rehearing in a future order. *Constellation Mystic Power, LLC*, 186 FERC ¶ 62,048 (2024). Mystic then timely appealed to this Court.

On May 6, 2024, the Commission filed an unopposed motion requesting to hold this appeal in abeyance for 60 days and to suspend filing of the certified index to the record. ECF Doc. # 2052942. The Court granted that motion, directing the parties to file motions to govern future proceedings by July 16, 2024. Order, ECF Doc. # 2055045.

During the abeyance, the Commission issued an Order on Rehearing and Clarification. *Constellation Mystic Power, LLC*, 187 FERC ¶ 61,099 (May 23, 2024) (granting in part and denying in part the clarifications requested by Mystic). Settlement discussions have been ongoing.

PROPOSAL

Both parties agree that this case should remain in abeyance for a further 120 days. Key parties are engaged in settlement discussions that appear likely to succeed. Holding this appeal in abeyance will serve the interests of judicial economy, as the project of settling the issues should resolve issues that otherwise would be presented to the Court in this appeal. For these reasons, Mystic asks for a 120-day abeyance, reserving both Mystic's and the Commission's rights to seek further abeyance of this proceeding or to propose alternative paths at the end of that period.

Accordingly, Mystic, without opposition, moves this Court for an order: (1) holding the petition for review in abeyance, and (2) directing that motions to govern future proceedings be filed within 120 days.

Dated: July 16, 2024

Respectfully submitted,

/s/ Matthew A. Fitzgerald

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CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(g), I certify that this filing complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(C) because it contains 412 words, excluding the parts exempted by Fed. R. App. P. 32(f).

I further certify that this filing complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this filing has been prepared in Century Schoolbook 14-point font using Microsoft Word.

Dated: July 16, 2024

/s/ Matthew A. Fitzgerald
Matthew A. Fitzgerald

*Counsel for Constellation Mystic
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CERTIFICATE OF SERVICE

I hereby certify that, on July 16, 2024, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Matthew A. Fitzgerald

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